

RE: FCC MB Docket 05-49

My name is Frederick E. Lass. I am the Director of Engineering at WRGB, Schenectady, NY.

The purpose of this filing is to advise the Commission of several of the aspects of the proposed SHERVA implementation rules that are under review. These suggestions are made by me, the individual who gets the difficult questions from the subscribers who feel that they don't understand the response from their satellite company, or who desire to convince WRGB that they qualify for a DNS waiver. Currently I am not able to assist numerous viewers who want to receive WRGB via satellite. These proposed changes should help some, but perhaps not all, of these subscribers. I will cite examples of their situation and suggest solutions that would be fair.

Prior to satellite, WRGB may have been one of the few off-air stations that could be seen in thousands of homes located in the mountains surrounding Albany. In many cases the signal was below grade B, but viewable due to the installation of high gain antennas located in the best spot to achieve maximum ground gain and the use of low noise preamplifiers. These locations often fell into the legal definition of a "white area". Satellite subscribers in these areas learned that they could replace WRGB viewing with the convenience of satellite distribution. Hence, the SHVA law that was passed with the intention of bringing network TV to unserved households for the first time was used instead to replace appropriate local signals with irrelevant distant networks.

Section III. A. paragraph 32 requests comments on the use of zip codes to define satellite communities. I agree with that proposed solution. The current system of county boundaries has been problematic for at least two areas in the Albany DMA. Zip code 12167, Stamford, NY, is located in Delaware County, a part of the Binghamton, NY DMA. Yet, some of zip code 12167 is in Schoharie County, NY, a part of the Albany TV market. Zip code 13329 is assigned to Dolgeville, NY which is in Herkimer County, a part of the Utica DMA. 13329 extends east into Fulton County, located in the Albany market. Since the SHVERA law was enacted these homes should have automatically be given Albany TV stations without a chance to obtain a waiver, yet we still are receiving waiver requests from these areas. It seems that the satellite companies are having trouble defining areas that cross zip code boundaries. Both Utica and Binghamton are not "local-into-local" markets, so stations in these DMA's are neither harmed nor helped by this oversight. The number of satellite subscribers in these areas seems to be modest.

In section III. B. paragraph 38: A significant problem concerning the application of these rules exist for DirecTV subscribers located in Southern Berkshire County, MA and Southern Columbia County, NY. DirecTV claims that the spot beam for Albany local stations does not cover these adjoining areas reliably. DirecTV treats these zip codes as if “local-into-local” does not exist. There are 35 zip codes located in these areas.¹ DirecTV will not sell Albany “local-into-local” service in these zip codes, even though Albany is a “local-into-local” market. The distance to these areas extends between 27 and 55 miles from downtown Albany. The specific reasons cited by DirecTV to WRGB are either a drop off in the signal strength of the satellite footprint or interference from an adjacent beam. An inspection of the DirecTV web site indicates that there may be 15 markets with a similar problem. They are denoted by the † symbol after the market name.² Many of the callers had been told to ask WRGB for a waiver by the DirecTV customer service representative, even though the SHVIA law required them to handle their own customer requests. Not one of the individuals was told by DirecTV that there is a spot beam problem with the DirecTV 7S satellite. It is paradoxical that most of these callers requested a waiver because they were not allowed to get CBS via the DirecTV satellite, not because they couldn’t receive WRGB’s over the air transmissions. I have made field measurements of the signal strength of the Albany signals of the DirecTV 7S spotbeam on transponder 31 in these areas.³ The tests indicate that while there is a slight loss of signal strength, the Eb/No measures higher in Southern Berkshire and Columbia Counties than at the WRGB studios in Schenectady. A higher Eb/No value indicates ample signal strength and less interference from adjacent beams. This means a better ability to decode digital signals from the satellite in Berkshire County than in the Albany Metro area. In fact the signals in Waltham, MA, 83 miles beyond Berkshire County, still measure an Eb/No 2 dB higher than the CONUS transponders on the national DirecTV satellites. This data is relevant because WFSB, the CBS affiliate in Hartford, CT is considered Significantly Viewed in Berkshire County. There is additional irony in the fact that WRGB has received calls from viewers who have been denied a waiver by WFSB and were told by the DirecTV customer service representative to call WRGB. This has occurred for viewers located in both Berkshire County and the Springfield, MA market. WRGB often carries the New York Jets or Buffalo Bills NFL games while WFSB normally carries the New England Patriots. If the lack of a waiver prevents a viewer from watching his favorite sports team, the issue can become emotional instead of logical. Over 700 waiver requests have been received from DirecTV

¹ See Appendix A. It can be derived by typing a zip code into:
<http://www.directv.com/DTVAPP/LocalChannelsAction.do>

² See Appendix B. Also on line at:
http://www.directv.com/DTVAPP/see/LocalChannels_markets.dsp

³ See Appendix C.
Data from DirecTV 7S Field Measurements

subscribers located in the specific zip code problem areas of Berkshire and Columbia Counties by WRGB since DirecTV began this partial “local-into-local” service in Albany. It is not known how many subscribers did not request waivers or if any gained automatic waivers because they are located in a predicted white area. It would seem to me that DirecTV should be required to serve the Albany stations to all their subscribers if they are located in the Albany DMA unless it can be shown that there is a problem that is not obvious to WRGB.

Another issue arose when the Albany stations were first available on Dish Network’s “local-into-local” service. We received complaints from viewers in northern Delaware County, NY who wanted to replace their off-air reception of WRGB with satellite viewing. These homes were located within our grade B contour, within the Binghamton, NY DMA, but in a white space for WBNG, the CBS station in Binghamton. Binghamton, NY is not yet a “local-into-local” market for either Dish network or DirecTV. The callers to WRGB had obtained waivers from WBNG, but the satellite companies would only allow reception of WCBS, not WRGB. WRGB is considered Significantly Viewed in Delaware County. Cable systems in these areas carry WRGB and not WBNG (nor WCBS). A second series of emails, letters, and phone calls were received when DirecTV began service to Albany, NY. Any blanket requirement that a subscriber must already receive the same network from the more distant Binghamton station before he is allowed to receive an out of market Significantly Viewed station would continue this inequity. As an example, Grand Gorge, NY, located in Delaware County, is 31 miles from WRGB’s transmitter, and 73 miles from WBNG’s tower. Should a waiver be granted by WBNG, reception of a Significantly Viewed station in Delaware County would provide for better service to the individual than a distant station. In some cases it would serve to satisfy a desire to see the local news and weather forecast, in other cases it’s a matter of delivering emergency information such as severe weather events and school closing reports. Such a change would not harm WBNG as they cannot be seen in these homes anyway. CBS would still get credit for CBS network viewing because the prime time rating reverts back to the network no matter which affiliate is the conduit. Local advertising on WCBS has very little relevance in Delaware County. To solve this problem the Docket has proposed that Significantly Viewed stations should be allowed to be transmitted into homes in counties where no “local-into-local” is available if a DNS waiver has been granted by the same network affiliate that is located in that market. The waiver requirement seems overly restrictive for an area that is in WRGB’s grade B contour and can receive WRGB but not WBNG. Under the current rules satellite subscribers in northern Delaware County automatically qualify for waivers from WBNG due to Longley-Rice coverage calculations. It seems that if the proposed waiver requirement were applied to all Delaware County viewers, WBNG would be required to issue waivers to viewers within WRGB’s grade B contour prior to delivery of

WRGB. A logical and practical addition would be to include any areas that are both Significantly Viewed and also located anywhere in the grade B contour of a station as immediately eligible for reception of Significantly Viewed stations even if they are out of market and the subscriber has not received a waiver from the in-market affiliate.

WRGB also received about the same number of complaints from off air viewers in Northern Dutchess County. Dutchess County is located in the New York City DMA.

About half of Dutchess County is within WRGB's grade B contour. The Southern third of Dutchess County is in the grade B contour of WCBS. Difficulty due to shadowing from Mount Beacon causes poor off-air reception of WCBS. All of these individuals cited the weather forecasts from Albany as far more relevant to them than New York City weather reports. WRGB is not considered Significantly Viewed in Dutchess County, but revisions in other sections of this proceeding can address that issue.

The circumstances described in III. B. paragraph 40 is true for residences of Otsego and Herkimer Counties in New York. These counties are located in the Utica television Market. WRGB is Significantly Viewed in Otsego and Herkimer Counties. There is no CBS affiliate located in Utica. Under the SHVIA system, DNS waivers allowed for transmission of WCBS to homes in these areas, but not WRGB, even though WRGB reception is often possible with an outdoor antenna. This made no sense. Otsego County begins only 32.3 miles from our analog transmitter site. The nearest corner of Herkimer County is 42 miles away. Because of local news, weather, and emergency bulletins as well as proximity to regional commerce these homes would be better served by WRGB than by distant stations.

The situation described in III. B. paragraph 48 also describes exactly the viewers in Otsego and Herkimer Counties. These counties are located in the Utica DMA. There is no CBS affiliate in the Utica market. Utica is not yet a "local-into-local" market for either Dish Network or DirecTV. WRGB is Significantly Viewed in these two counties. I can't understand why refusing to allow transmission of WRGB via satellite due to no "local-into-local" should be denied when a distant CBS station is allowed. Once WRGB transmission to these counties becomes legally possible via the satellite, the justification for the availability for a CBS distant station in these counties should become moot.

In section III. B. paragraph 51: The FCC seeks comments on the sunset provision of existing waivers on December 31, 2008. Prior to "local-into-local" availability in Albany WRGB had a policy of offering waivers to anyone in marginal areas who claimed to have difficulty with receiving WRGB over the

air. In addition to the huge workload created by numerous waiver requests in hilly terrain, we felt that offering waivers until “local-into-local” became available would foster viewer goodwill after “local-into-local” was in operation. We’re sure that there are individuals with waivers that can actually receive us both over the air as well as via satellite. Any extension of those waivers does not make sense today and should not be further extended beyond 2008. The original purpose of waivers was to offer satellite television service to only those homes that were unable to receive the same network off the air. Unfortunately, both DBS providers and subscribers abused this “white area” provision. The small and sensible provision made by Congress was used by some as a legal loophole for circumventing copyright law. I have seen comments on various DBS forums that serve as instructions for obtaining waivers even if off air reception works fine. With “local-into-local”, the need for waivers for network reception is unnecessary. This is because the concept of a “white area” is irrelevant for satellite distribution.

Section III. B. paragraph 60 proposes to require satellite carriers to list all Significantly Viewed stations by market and community. I would also request that they be require to list any spot beam problems by market and community with sufficient detail so that a subscriber will not be compelled to call a TV station to request a waiver only to learn about a problem with the satellite carrier’s operation.

In summation, the emergence of DBS service has been a mixed blessing to rural residences located in the fringes of WRGB’s coverage area. The waiver process actually removed local choices because of the importation of DNS to these homes. This system hurt WRGB’s business. I believe that the proposed implementation of the SHVERA law should facilitate satellite subscribers who are located in adjoining areas to return to the WRGB viewing that they had prior to the waiver process.

Appendix A

DirecTV problem Zip Codes in the Albany Market

Massachusetts

Zip Code	Village
01029	East Otis
01222	Ashley Falls
01223	Becket
01226	Dalton yet 01227 in Dalton is OK!
01229	Glendale

01230	Egremont, Great Barrington, New Marlborough
01235	Hinsdale, Peru
01236	Housatonic
01238	Lee
01240	Lenox
01242	Lenox Dale
01244	Mill River
01245	Monterey
01252	North Egremont
01253	Otis
01255	Sandisfield
01256	Savoy
01257	Sheffield
01258	South Egremont
01259	Southfield
01260	South Lee
01262	Stockbridge
01264	Lee, Tyringham
01266	Alford, West Stockbridge
01270	Windsor
01343	Drury

New York

12502	Ancram
12503	Ancramdale
12516	Copake
12517	Copake Falls
12521	Craryville
12523	Elizaville
12526	Germantown
12529	Copake Lake
12530	Hollowville
12541	Livingston
12593	West Copake

Appendix B

The markets listed below are on the DirecTV web site with the † symbol. This indicates that zip code information is needed to determine local-into-local eligibility. This is a suggestion that there may be a real or perceived spot beam problem in these markets.

Albany-Schenectady-Troy, NY*†
 Albuquerque-Sante Fe, NM*†
 Buffalo, NY*†
 Chico, CA*†

Denver, CO†
 Duluth, MN-Superior, WI*†
 Jackson, MS*†
 Little Rock-Pine Bluff, AR*†
 Medford-Klamath Falls, OR*†
 Norfolk, VA*†
 Paducah, KY-Cape Girardeau, MO*†
 Reno, NV*†
 Roanoke, VA*†
 Salt Lake City, UT†
 Tallahassee, FL-Thomasville, GA*†

Appendix C

Data from DirecTV 7S Field Measurements

Location	Signal dbm	Eb/no Db	Date	Time	Temp	Weather
Niskayuna, NY	-23	14.0	3/10/2005	10:00 AM	20's	Clear

Altamont, NY	-22	14.0	3/10/2005	8:30 AM 20's	Clear
Lee, MA	-23.7	15.2	3/11/2005	3:15 PM	27 snow
Otis, MA	-25.3	15.9	3/11/2005	3:50 PM	23 snow
Ludlow, MA	-26.3	15.8	3/11/2005	4:30 PM	30 light snow
Sturbridge, MA	-27	15.1	3/11/2005	5:25 PM	31 light snow
Waltham, MA	-27.8	12.8	3/12/2005	11:00 AM	31 heavy wet snow
Franklin, MA	-25.6	13.8	3/13/2005	9:45 AM	32 cloudy
Great Barrington, MA	-25.6	14.9	3/13/2005	12:30 PM	32 Cloudy
Ashley Falls, MA	-26.1	15.1	3/13/2005	1:00 PM	35 Cloudy
Copake, NY	-26.1	15.0	3/13/2005	1:30 PM	36 Party sunny
Ancram, NY	-26.1	14.7	3/13/2005	1:50 PM	34 light snow
South Amsterdam, NY	-20.9	14.4	3/16/2005	7:45 PM	31 stars and moon
Little Falls, NY	-23.6	14.3	3/16/2005	7:00 PM	31 Clear
Oneida, NY	-20.9	14.4	3/16/2005	6:15 PM	32 Clear
Syracuse, NY	-23.4	14.3	3/16/2005	5:00 PM	36 Sunny

Equipment used	s/n	Switch
DirectTV receiver	E532PA3H6	
WNC 20" X 18 " dish	n/a	Internal
Applied Instruments meter	1624333	